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09/610,158	06/30/2000	William J. Veeneman	9203/046 RE	3096

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DENVER, CO 80264

EXAMINER

DIXON, THOMAS A

ART UNIT PAPER NUMBER

3639

DATE MAILED: 07/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/610,158

Applicant(s)

VEENEMAN ET AL.

Examiner

Thomas A. Dixon

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 June 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 9-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 January 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. The Amendments submitted 2 June 2006 is non-compliant to the requirements of 1.173(b), (d) and (g). Amendments are required to be marked by underlining added text and bracketing deleted text as compared to the originally patented claims and proper parenthetical identifiers.

The abstract of the disclosure does not comply with the requirements of 1.173(b), as stated by applicant, it is a copy of the original abstract and therefore should have no underlining.

2. The Amendment submitted 28 June 2004 is non-compliant to the requirements of 1.173(b), (d) and (g). Amendments are required to be marked by underlining added text and bracketing deleted text as compared to the originally patented claims and proper parenthetical identifiers.

This amendment cancelled claims 1-8, 15-29 which were filed as continuation 10/940,094.

3. The Amendment submitted 19 June 2002 is non-compliant to the requirements of 1.173(b), (d) and (g). Amendments are required to be marked by underlining added text and bracketing deleted text as compared to the originally patented claims and proper parenthetical identifiers.

4. It is suggested that a supplemental oath/declaration be submitted with each amendment to specifically state errors to be corrected with each amendment and state "no deceptive intent" or that a "catch-up" oath/declaration be submitted prior to Allowance stating "Every error in the patent which was corrected in the present reissue

application, and which is not covered by the prior oath(s) and/or declaration(s) submitted in this application, arose without any deceptive intention on the part of the applicant" see 37 CFR 1.175(b)(1) and MPEP 1444.

### ***Drawings***

5. The drawings submitted 28 June 2004 are not compliant under 1.173(b).

Corrected drawing sheets in compliance with 37 CFR 1.173(b) are required in reply to the Office action to avoid abandonment of the application.

Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as "Amended Sheet" pursuant to 37 CFR 1.173(b).

Drawing changes must be accompanied by a marked-up copy clearly labeled "Annotated Marked-up Drawings."

The objection to the drawings will not be held in abeyance.

### ***Improper Recapture***

6. Claims 1-12, 15-29 are rejected under 35 U.S.C. 251 as being improper recapture of broadened claimed subject matter surrendered in the application for patent upon which the present reissue is based. See *Hester Industries, Inc. v. Stein, Inc.*, 142 F.3d 1472, 46 USPQ2d 1641 (Fed Cir. 1998); *In re Clement* 131 F.3d 1464, 45 USPQ2d 1161 (Fed. Cir 1997); *Ball Corp. V United States*, 729 F.2d 1429, 1436, 221 USPQ 289, 295 (Fed. Cir. 1984), A broadening aspect is present in the reissue which was not present in the application for patent. The record of the application for the patent shows that the broadening aspect (in the reissue) relates to subject matter that applicant previously surrendered during the prosecution of the application. Accordingly, the

narrow scope of the claims in the patent was not an error within the meaning of 35 U.S.C. 251, and the broader scope surrendered in the application for patent cannot be recaptured by the filing of the present reissue application.

Applicant's broadening of the claims has been considered in light of the prosecution of the parent cases and is seen to be improper recapture. Applicant's arguments of 12 September 1997, repeated in the Preliminary Amendment, argue that the registry serves a plurality of stores in a shopping area, not stores which are in spatially distant areas. Applicant's amendment of 30 June 2000 removes the proximity limitation from both the stores and the registry, which is seen as improper recapture.

### ***Double Patenting***

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

7. Claims 1-29 of this application conflict with claims 1-29 of Application No. 10/940,094. 37 CFR 1.78(b) provides that when two or more applications filed by the same applicant contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention during pendency in more than one application. Applicant is required to either

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cancel the conflicting claims from all but one application or maintain a clear line of demarcation between the applications. See MPEP § 822.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chain Store Age in view of McCalley et al (5,113,496).

As per Claim 1, 9, 13, 15, 20, 25.

Chain Store Age discloses:

at least one data terminal comprising:

a first data entry system through which first information and inquiries about registrants in the gift registry are entered into the gift registry system, the first information for each registrant including at least the registrant's name, see page 1 lines 51 – page 2 column 1, line 10;

a second data entry system capable of receiving second information, the second information including a list of potential gifts for each registrant, see page 2 column 1, lines 3-10 and lines 41-48;

a database storage system that stores and retrieves the first and second information about the registrant, see page 2, column 1, lines 6-10; and

a display system that displays the list of potential gifts for a particular registrant, in response to an inquiry from a prospective purchaser, see page 2 column 3, lines 14-21 .

Chain Store Age discloses the collection of SKU numbers, which can be specific to the merchant and in the case of a store brand and therefore identified with the merchant, just as the bride can scan a generic code, see page 2, column 1, lines 41-49.

Chain Store Age does not specifically disclose the unique identifier associated with the particular merchant having each of the desired gifts.

McCalley et al ('496) teaches a system that provides customers with online shopping and gift registry in the electronic mall, see column 22, lines 9-13 for the benefit of increased customer satisfaction and convenience.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to modify the invention of Chain Store Age, if necessary, to

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store and display gift registry associated with different merchants, as taught by McCalley et al ('496) for the benefit of increased customer satisfaction and convenience.

As per Claim 2.

Chain Store Age further discloses a touch screen, see page 2, column 3, line 18.

As per Claim 3.

Chain Store Age further discloses the second data entry system comprises a transfer device electrically connected to the computer system and a portable device, see page 2, column 1, lines 3-10.

As per Claim 4, 10 16, 21, 26

Chain Store Age further discloses the portable device is a hand-held scanning device, see page 2, column 1, lines 4-5.

As per Claim 5, 17, 22, 27, 28.

Chain Store Age further discloses the transfer device is a docking station for the portable handheld device, see page 2, column 1, lines 9-10.

As per Claim 6.

Chain Store Age does not specifically disclose the second data entry system identifies each participating merchant by a unique identifier.

Chain Store Age discloses the collection of SKU numbers, which can be specific to the merchant and in the case of a store brand and therefore identified with the merchant, just as the bride can scan a generic code, see page 2, column 1, lines 41-49.

Chain Store Age does not specifically disclose the unique identifier associated with the particular merchant having each of the desired gifts.

McCalley et al ('496) teaches a system that provides customers with online shopping and gift registry in the electronic mall, see column 22, lines 9-13 for the benefit of increased customer satisfaction and convenience.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to modify the invention of Chain Store Age, if necessary, to store and display gift registry associated with different merchants, as taught by McCalley et al ('496) for the benefit of increased customer satisfaction and convenience.

As per Claim 7.

Chain Store Age does not specifically disclose the unique identifier is in the form of a digitally encoded value embodied in a bar code.

Chain Store Age discloses the collection of SKU numbers, which can be specific to the merchant and in the case of a store brand and therefore identified with the merchant, just as the bride can scan a generic code, see page 2, column 1, lines 41-49.

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Chain Store Age does not specifically disclose the unique identifier associated with the particular merchant having each of the desired gifts.

McCalley et al ('496) teaches a system that provides customers with online shopping and gift registry in the electronic mall, see column 22, lines 9-13 for the benefit of increased customer satisfaction and convenience.

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As per Claim 8, 12, 14.

Chain Store Age further discloses an updating means for updating the database storage registrant as a prospective purchaser buys a gift from the list of potential gifts for a potential registrant, see page 2, column 1, lines 49-57.

As per Claim 18, 23.

Chain Store Age does not specifically disclose a modem.

McCalley et al ('496) teaches a modem, see column 22, lines 63-67 as an old and well known method of communication between electronic devices.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use a modem in the invention of Chain Store Age for the benefit of communication between electronic devices.

As per Claim 19.

Chain Store Age does not specifically disclose a wireless link.

McCalley et al ('496) teaches a wireless link, see column 40, lines 52-68 as an old and well known method of communication between electronic devices.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use a wireless link in the invention of Chain Store Age for the benefit of communication between electronic devices.

As per Claim 24, 29.

Chain Store Age discloses the collection of SKU numbers, which can be specific to the merchant and in the case of a store brand and therefore identified with the merchant, just as the bride can scan a generic code, see page 2, column 1, lines 41-49 and display to purchasers, see page 2, column 3, lines 16-21.

Chain Store Age does not specifically disclose the unique identifier associated with the particular merchant having each of the desired gifts.

McCalley et al ('496) teaches a system that provides customers with online shopping and gift registry in the electronic mall, see column 22, lines 9-13 for the benefit of increased customer satisfaction and convenience.

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store and display gift registry associated with different merchants, as taught by McCalley et al ('496) for the benefit of increased customer satisfaction and convenience.

9. Claims 1-17, 20-22, 24-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chain Store Age in view of Parent.

As per Claim 1, 9, 13, 15, 20, 25.

Chain Store Age discloses:

at least one data terminal comprising:

a first data entry system through which first information and inquiries about registrants in the gift registry are entered into the gift registry system, the first information for each registrant including at least the registrant's name, see page 1 lines 51 – page 2 column 1, line 10;

a second data entry system capable of receiving second information, the second information including a list of potential gifts for each registrant, see page 2 column 1, lines 3-10 and lines 41-48;

a database storage system that stores and retrieves the first and second information about the registrant, see page 2, column 1, lines 6-10; and

a display system that displays the list of potential gifts for a particular registrant, in response to an inquiry from a prospective purchaser, see page 2 column 3, lines 14-21 .

Chain Store Age discloses the collection of SKU numbers, which can be specific to the merchant and in the case of a store brand and therefore identified with the merchant, just as the bride can scan a generic code, see page 2, column 1, lines 41-49.

Chain Store Age does not specifically disclose the unique identifier associated with the particular merchant having each of the desired gifts.

Parent teaches a mall that provides multi merchant gift registry service to its customers for the benefit of increased customer satisfaction and convenience.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to modify the invention of Chain Store Age, if necessary, to store and display a registry for multiple merchants, as taught by Parent for the benefit of increased customer satisfaction and convenience.

As per Claim 2.

Chain Store Age further discloses a touch screen, see page 2, column 3, line 18.

As per Claim 3.

Chain Store Age further discloses the second data entry system comprises a transfer device electrically connected to the computer system and a portable device, see page 2, column 1, lines 3-10.

As per Claims 4, 10, 16, 21, 26

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Chain Store Age further discloses the portable device is a hand-held scanning device, see page 2, column 1, lines 4-5.

As per Claim 5, 17, 22, 27, 28.

Chain Store Age further discloses the transfer device is a docking station for the portable handheld device, see page 2, column 1, lines 9-10.

As per Claim 6.

Chain Store Age discloses the collection of SKU numbers, which can be specific to the merchant and in the case of a store brand and therefore identified with the merchant, just as the bride can scan a generic code, see page 2, column 1, lines 41-49.

Chain Store Age does not specifically disclose the unique identifier associated with the particular merchant having each of the desired gifts.

Parent teaches a mall that provides multi merchant gift registry service to its customers for the benefit of increased customer satisfaction and convenience.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to modify the invention of Chain Store Age, if necessary, to store and display a registry for multiple merchants, as taught by Parent for the benefit of increased customer satisfaction and convenience.

As per Claim 7.

Chain Store Age discloses the collection of SKU numbers, which can be specific to the merchant and in the case of a store brand and therefore identified with the merchant, just as the bride can scan a generic code, see page 2, column 1, lines 41-49.

Chain Store Age does not specifically disclose the unique identifier associated with the particular merchant having each of the desired gifts.

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Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to modify the invention of Chain Store Age, if necessary, to store and display a registry for multiple merchants, as taught by Parent for the benefit of increased customer satisfaction and convenience.

As per Claim 8, 12, 14.

Chain Store Age further discloses an updating means for updating the database storage registrant as a prospective purchaser buys a gift from the list of potential gifts for a potential registrant, see page 2, column 1, lines 49-57.

As per Claim 24, 29.

Chain Store Age discloses the collection of SKU numbers, which can be specific to the merchant and in the case of a store brand and therefore identified with the merchant, just as the bride can scan a generic code, see page 2, column 1, lines 41-49 and display to purchasers, see page 2, column 3, lines 16-21.

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10. Claims 1-17, 20-22, 24-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chain Store Age in view of Brumback et al.

As per Claim 1, 9, 13, 15, 20, 25.

Chain Store Age discloses:

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a second data entry system capable of receiving second information, the second information including a list of potential gifts for each registrant, see page 2 column 1, lines 3-10 and lines 41-48;

a database storage system that stores and retrieves the first and second information about the registrant, see page 2, column 1, lines 6-10; and

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Chain Store Age does not specifically disclose the unique identifier associated with the particular merchant having each of the desired gifts.

Brumback et al teaches a system that provides customers with gift suggestions from several stores in the mall, see page 4, lines 9-13 for the benefit of increased customer satisfaction and convenience.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to modify the invention of Chain Store Age, if necessary, to store and display gift suggestions associated with different merchants, as taught by Brumback et al for the benefit of increased customer satisfaction and convenience.

As per Claim 2.

Chain Store Age further discloses a touch screen, see page 2, column 3, line 18.

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11. Claims 18-19, 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chain Store Age over Parent or Brumback in view of McCalley et al (5,113,496).

As per Claim 18, 23.

Chain Store Age does not specifically disclose a modem.

McCalley et al ('496) teaches a modem, see column 22, lines 63-67 as an old and well known method of communication between electronic devices.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use a modem in the invention of Chain Store Age for the benefit of communication between electronic devices.

As per Claim 19.

Chain Store Age does not specifically disclose a wireless link.

McCalley et al ('496) teaches a wireless link, see column 40, lines 52-68 as an old and well known method of communication between electronic devices.

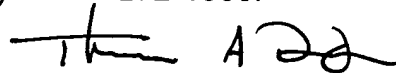
Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use a wireless link in the invention of Chain Store Age for the benefit of communication between electronic devices.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas A. Dixon whose telephone number is (571) 272-6803. The examiner can normally be reached on Monday - Thursday 6:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on (571) 272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Thomas A. Dixon  
Primary Examiner  
Art Unit 3639

July 06